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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Nathalie JAGER LEZER

Application No.: 09/576,546

Filed: May 22, 2000

For: ANHYDROUS CARE OR MAKE-UP
COMPOSITION CONTAINING FIBERS AND
POLYOLS

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) Group Art Unit: 1615

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) Examiner: S. Tran
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Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In response to the Office Action dated November 21, 2000, reconsideration of this application in view of the following remarks is respectfully requested.

In the Office Action, the Examiner has required restriction under 35 U.S.C. § 121 among the following species of fiber: cellulose fibers extracted from wood, or plants, or algae; acetate fiber; acrylic fiber; polyolefin fiber; carbon fiber; rayon fiber; polyamide fiber; silk fiber; cotton fiber; wool fiber; flax fiber; viscose fiber; poly-p-phenylene terephthamide fiber; glass fiber; silica fiber; aramide fiber; polytetrafluoroethylene fiber; insoluble collagen fiber; polyester fiber; polyvinyl chloride or polyvinylidene chloride fiber; polyvinyl alcohol fiber; polyacrylonitrile fiber; chitosan fiber; polyurethane fiber; polyethylene phthalate fiber; surgical fiber; and fibers formed from a mixture of polymers.

The election of species requirement is respectfully traversed. To be fully responsive, however, Applicant elects, with traverse, polyamide fibers as the species of fiber, as recited in claim 7. Additionally, the Examiner has required a listing of all claims readable on the elected species. Claims 1-7 and 13-32 read on this species.

Applicant traverses the election of species requirement on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the recited species of fibers. In fact, the Examiner has failed to state that any burden exists to examine all of the species of fibers recited in the present claims. Accordingly, Applicant respectfully requests that all the recited species continue to be examined in this application.

If the Examiner chooses, however, to maintain the election of species requirement, Applicant expects the Examiner, if the elected species is found allowable, to continue to examine the full scope of claims 1-32 to the extent necessary to determine the patentability of these pending claims, *i.e.*, extending the search to a reasonable number of the non-elected species, as is her duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 

William Z. Nakhleh
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Date: December 21, 2000